

Exhibit A
Testimony of Jeffrey Smith
in *People v. Smith*, 15 CR 18796

1 MR. ANDRE: Judge, at this moment, the defense
2 calls Mr. Jeffrey Smith to the stand.

3 THE COURT: Thank you very much, Mr. Andre.

4 THE DEPUTY SHERIFF: Step up, remain standing,
5 face the clerk, and raise your right hand.

6 (Witness sworn.)

7 THE COURT: Mr. Smith, like I have been telling
8 everybody, the microphone is live. If you talk into
9 that, everybody will be able to hear you, and it will
10 be greatly appreciated. Thank you.

11 Proceed, please.

12 WHEREUPON,

13 JEFFREY SMITH,
14 called as a witness on his own behalf, having been
15 first duly sworn, under oath was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. ANDRE:

19 Q. Good morning, Mr. Smith.

20 A. Good morning.

21 Q. In a loud, clear voice, please state your
22 name for the record spelling your first name for the
23 madam court reporter, please?

24 A. My name is Jeffrey Smith, J-e-f-f-r-e-y,

1 S-m-i-t-h.

2 Q. Do you have any middle names, Mr. Smith?

3 A. Yes, Lanelle. Jeffrey Lanelle Smith.

4 Q. Mr. Smith, how old are you?

5 A. 28.

6 Q. Mr. Smith, will you tell the ladies and
7 gentlemen of the jury a little bit about your
8 educational background?

9 A. I attended Collard High School (phonetic) in
10 2007. I didn't go right away to college, because my
11 grandmother was diagnosed with cancer, so I waited.
12 And then I went in 2010 to Iowa Central to play
13 football. Then her cancer came back, and I went back
14 home to her.

15 Q. Mr. Smith, when you say you went back home,
16 can you please explain to the ladies and gentlemen of
17 the jury, what do you mean by that?

18 A. I went back to 4026 West 21st Place where my
19 grandmother and grandfather lives.

20 Q. Is that also where you were raised,
21 Mr. Smith?

22 A. Yes.

23 Q. Can you tell the ladies and gentlemen of the
24 jury about what is it that you currently do right now,

1 Mr. Smith, for work?

2 A. I currently do security at Navy Pier. I work
3 with the 18th District at Navy Pier.

4 Q. And were you working -- can you tell me a
5 little bit about what does it mean to do security at
6 Navy Pier?

7 A. Security at Navy Pier is I direct -- I direct
8 traffic, and I do special events for when the -- when
9 Navy Pier produce special events as
10 far as -- they call it breast cancer and private
11 events.

12 Q. You said you work with the 18th District.
13 What are you referring to when you say, the 18th
14 District?

15 A. The Chicago Police 18th District.

16 Q. And in your capacity as a security guard
17 at Navy Pier, do you have to have any special
18 clearances?

19 A. Yes.

20 Q. Is that to work with any special guests, if
21 anything?

22 A. Yes.

23 Q. Can you please explain to the ladies and
24 gentlemen, what does that mean?

1 A. That mean -- well, the badge that I currently
2 have, special events is, like, for -- Navy Pier has a
3 special room where they have meetings for celebrities
4 and the mayor and other aldermen. So I do special
5 security there.

6 Once they -- whatever they have going on,
7 whatever event that's there, I be there for security
8 right along with the Chicago public police.

9 MR. ANDRE: Now, showing the prosecution what's
10 been previously marked as Defense Exhibit Number 1,
11 your Honor.

12 May I approach?

13 THE COURT: Sure, go ahead.

14 BY MR. ANDRE:

15 Q. Mr. Smith, do you recognize what I just
16 placed in front of you?

17 A. Yes. That's my security badge.

18 Q. And when you say your security badge, your
19 security badge for what?

20 A. Navy Pier.

21 Q. Is that the badge you have to have on when
22 you're at Navy Pier?

23 A. Yes. It has to be visible at all times.

24 Q. Does that badge give you special

1 clearances?

2 A. Yes.

3 Q. Mr. Smith, besides working at Navy Pier, what
4 do you like to do on your off time?

5 A. Well, I had just joined New Life Covenant
6 Church, like, three years prior to that, and since
7 three years prior to that, I had just been going --
8 getting myself into church more often.

9 Q. When you say, three years prior to that, what
10 time frame are you referring to, Mr. Smith?

11 A. Like 2012, if I'm not mistaken, is when I
12 joined.

13 Q. And at New Life Covenant Church, what if
14 anything do you do there?

15 A. I'm a greeter, and I'm in the Iron Man's
16 Treatment. It's a men's ministry.

17 Q. Mr. Smith, when you say you're a greeter at
18 New Life Covenant Church, what does that mean?

19 A. Everyone that comes in, if they want a hug, I
20 greet them with a hug and a smile.

21 MR. ANDRE: And, your Honor, showing you what's
22 been previously marked as -- showing the state what's
23 been previously marked as Defense Exhibit Number 2.

24 For the record, your Honor, I stand

1 corrected. It might be 4 actually.

2 May I approach the witness, your Honor?

3 THE COURT: Is that your final answer, 4?

4 MR. ANDRE: Yes, your Honor. 4 is my final
5 answer.

6 THE COURT: Sure, got it.

7 Certainly. Go ahead. You don't have to ask
8 my permission.

9 MR. ANDRE: Thank you, Judge.

10 BY MR. ANDRE:

11 Q. Mr. Smith, can you please explain to the
12 ladies and gentlemen of the jury what I just put in
13 front of you?

14 A. You just put my -- it's a pass letting
15 everyone know that I am a greeter at the door.

16 Q. And does everyone who is part of that church
17 get this pass?

18 A. No, not everyone. Only the people that's in
19 the ministry, in the greeting ministry.

20 Q. How long have you been a greeter with the
21 ministry, Mr. Smith?

22 A. For a year now.

23 Q. Mr. Smith, I'd like to call your attention --
24 you also mentioned the Iron Man's Ministry?

1 A. Yes.

2 Q. Can you explain to the ladies and
3 gentlemen what you did exactly with the Iron Man's
4 Ministry?

5 A. The Iron Man's Ministry is all the men that
6 actually in the church that joined the church, they
7 just went away for a retreat -- when it's night
8 out, it's like a meeting, but it's with the church
9 people.

10 Q. Calling your attention back to October 8,
11 2015, do you recall that night approximately 9:15 or
12 so?

13 A. Yes.

14 Q. What, if anything, do you recall from that
15 night?

16 A. Well, I was sitting on the front porch. It
17 was me and one of my friends. It had just
18 started raining --

19 Q. One second. When you say you were sitting on
20 your front porch, what porch are you referring to?

21 A. 4036 West 21st Place. That's my
22 grandmother's residence.

23 Q. Your grandmother's residence.

24 Please continue. You may continue.

1 A. I was sitting on the porch with my friend,
2 Christopher. It had just stopped raining, and he had
3 left. I continued to sit on the porch, and my sister
4 had came outside, and she said she wanted to go to the
5 store.

6 And when she said she wanted to go to the
7 store, I told her to wait. Because prior to that,
8 earlier, I had seen the same police cars continue to
9 circle the block, the block that I was living at.

10 And I told her to wait, because I didn't know
11 what was going on. And --

12 Q. When you said you told her -- you said your
13 sister. Who are you referring to when you say your
14 sister?

15 A. Secara, Secara Smith (phonetic.)

16 Q. And after Secara came out, what if anything
17 did you and Secara do?

18 A. I preceded to walk down the stairs to go walk
19 to the store. She was behind me.

20 Q. You were going to walk to the store for what
21 purpose if you recall?

22 A. I don't know what purpose. She wanted to go
23 to the store. I just wanted to walk with her because
24 I didn't know what was going on.

1 Q. As you were going down the steps, what if
2 anything are you doing?

3 A. I'm fixing my belt.

4 Q. And at this moment, Mr. Smith, are you inside
5 or outside of your yard?

6 A. I'm inside the yard. I haven't made it
7 outside the yard yet.

8 Q. As you're fixing your belt inside your yard,
9 what if anything occurred?

10 A. I was fixing my belt. As I looked up, I
11 wasn't even all the way out the yard yet. I looked
12 up. I seen the police car right there. He told me to
13 put my hands up and get on the ground.

14 Q. And when the officer said, put your hands up,
15 get on the ground, if you recall, where exactly was
16 the officer when he said that?

17 A. He was still in the car when he said it the
18 first time.

19 Q. Was it one officer or two officers who said,
20 put your hands up?

21 A. It was one.

22 Q. What, if anything, happened after you heard,
23 put your hands up, get on the ground?

24 A. I put my hands up, and he said it again. And

1 I said, for what?

2 And that's when he got out the car, and he
3 proceeded towards me.

4 Q. When the officers got out the car and
5 proceeded towards you, what if anything did you do?

6 A. I backed back into the gate. Backed back
7 into my yard.

8 Q. Now, when the officer got out the car, by the
9 time he was out of the car, if you recall, where
10 exactly were you in relation to your front gate?

11 A. I was in the front -- I was behind the front
12 gate in my yard at the time.

13 Q. And if you recall, what, if anything,
14 happened with your sister as the officer gets out the
15 vehicle?

16 A. She's right behind me.

17 Q. Explain to the ladies and gentlemen of the
18 jury what happened next once the officer gets out the
19 vehicle and tells you again to put your hands up and
20 get on the ground?

21 A. After he told me put my hands up and get on
22 the ground, and I told him, for what, I backed back
23 into the yard. After he got out of the car to proceed
24 towards me and once he got out the car, I backed back

1 into the yard.

2 I'm sorry. I'm sorry.

3 I backed back into the yard. He pushed me.

4 Once I got to the stairway because I was backing
5 back, and it's a stump right there, and I stumbled,
6 and he pushed me because he thought I was going
7 upstairs.

8 He said, you trying to --

9 Q. Mr. Smith, take your time.

10 A. I'm sorry.

11 Q. Are you nervous today?

12 A. Huh? Yes, I am very, extremely nervous.

13 Q. You mentioned that as you were walking
14 towards the steps, do you recall which officer went
15 and pushed you?

16 A. Yes. It was Frank, the one that was talking
17 to me from the beginning. The other officer never
18 said anything to me.

19 Q. Is that Officer Francone if you recall?

20 A. Yes.

21 Q. As Officer Francone -- is he in front of you
22 when he pushes you?

23 A. No, he's on the side of me at the time.

24 Q. And when he pushed you, how did he push

1 you?

2 A. He pushed me with both hands.

3 Q. He pushed you with both hands?

4 A. Yes.

5 Q. What, if anything, happened as he pushes you
6 with both hands?

7 A. As he pushed me with both hands, I stumbled
8 back. I had on a black hoodie, and I took my hoodie
9 off.

10 Q. And why did you take your hoodie off?

11 A. Because I wanted to show him I didn't have
12 anything on me. I don't have anything.

13 Q. Prior to this officer pushing you,
14 Mr. Smith, did he explain why it was that you were
15 being stopped?

16 A. No. That's why I didn't let them -- that's
17 why I didn't listen. Because he never told me what he
18 grabbed me for. I never was told anything, and that's
19 why I didn't listen, because I was scared. I didn't
20 know --

21 Q. And after Officer Francone pushed you, how
22 did you feel then?

23 A. I was upset.

24 Q. What, if anything, happened after you tried

1 to show him that you didn't have anything on your
2 person?

3 A. He continued to try to grab me and arrest
4 me.

5 Q. At that moment, did you know why he was
6 trying to arrest you?

7 A. No, I did not.

8 Q. What, if anything, did you do as this officer
9 continues to try to grab you and arrest you?

10 A. I kept resisting. I kept turning away. I
11 wouldn't let them touch me at all.

12 Q. And what, if anything, happened as you --
13 what were you doing with your hands, Mr. Smith?

14 A. My hands was behind my back at the time.
15 Every time he reached, I turned away like this, away
16 from him.

17 Q. At that moment, Mr. Smith, had you pushed
18 Officer Francone?

19 A. No, I haven't.

20 Q. At that moment, Mr. Smith, had you pushed
21 Officer Zuniga?

22 A. No.

23 Q. At that moment, Mr. Smith, had you elbowed
24 Officer Francone in the face?

1 A. No.

2 Q. Mr. Smith, when these two officers got out
3 their vehicle, what, if anything, did you notice them
4 wearing?

5 A. They had on plain clothes.

6 Q. Did they have --

7 THE COURT: Quit leading, Counsel.

8 MR. ANDRE: Sorry, your Honor.

9 BY MR. ANDRE:

10 Q. Other than their plain clothes, what, if
11 anything, else did they have?

12 A. They was armed with whatever kind of guns
13 they had. They had on their bulletproof vests, and
14 that was basically -- that's all I seen was the radio,
15 the gun, and the bulletproof vest.

16 Q. So you recognized the radio, the gun, and the
17 bulletproof vest as soon as they got out their
18 vehicle?

19 A. Yeah. Basically, yes.

20 Q. Did you know they were officers as soon as
21 they got out of their vehicle?

22 A. Yes.

23 Q. And, Mr. Smith, while you were in the yard,
24 what happens next?

1 A. Well, after they approached me? After they
2 approached me when I was in the yard, I was telling
3 them, what did I do? After I took my hoodie off, I
4 was like, what did I do?

5 I told them I work -- I do security with Navy
6 Pier with the 18th District. What did I do? I didn't
7 do nothing.

8 They didn't tell me anything. And he kept
9 trying to reach to grab me, and I kept turning. And
10 it got to the point, he kept reaching. I ended up --
11 as he approaching me, I'm backing away from him. I'm
12 backing away from him around a bush. There's a bush
13 in my front yard.

14 And I ended up in the corner of the front
15 yard where the gate is. And after that, that's when
16 backup was basically on its way there by then. And
17 then when backup came --

18 Q. One second, Mr. Smith.

19 You mentioned you ended up in the corner of
20 your yard. Is that what you just said?

21 A. Yes.

22 MR. ANDRE: Showing what's previously been
23 marked, your Honor, as People's Number 14.

24 Your Honor, is it okay if Mr. Smith steps

1 down?

2 THE COURT: Sure. Mr. Smith, you can step
3 down.

4 BY MR. ANDRE:

5 Q. Mr. Smith, please point to exactly where --
6 what do you recognize this to be?

7 A. That's the back entrance of my front yard.

8 Q. And is this the bush that you mentioned?

9 A. Yes.

10 Q. Can you please show the ladies and gentlemen
11 of the jury by pointing where exactly were you in the
12 back of the yard?

13 A. Right here, right at the gate.

14 MR. ANDRE: Your Honor, may the record reflect
15 Mr. Smith is pointing to the back gate?

16 BY MR. ANDRE:

17 Q. And while you were standing there, where are
18 your hands if you recall?

19 A. My hands was up.

20 Q. Can you please show the ladies and gentlemen
21 of the jury, how did you have your hands while you
22 were there?

23 A. My hands was up like this.

24 Q. Mr. Smith, were both of your hands palms

1 open?

2 A. Yes.

3 THE COURT: I'm sorry. Counsel, have a seat.

4 Not you, Mr. Andre. Mr. Urdangen.

5 MR. URDANGEN: I'm working the computer.

6 THE COURT: I apologize. I thought that was the
7 only one. My mistake.

8 MR. ANDRE: Your Honor, showing counsel what's
9 been previously marked as People's Number 10.

10 THE COURT: Sure.

11 BY MR. ANDRE:

12 Q. Mr. Smith, what do you recognize that to be?

13 A. That's the front yard. That's the front of
14 my house.

15 Q. Can you show the ladies and gentlemen of the
16 jury where you were when you first observed these
17 officers you talked about?

18 A. I was right here.

19 Q. And, Mr. Smith, do you recognize that
20 building that's right next to the front yard?

21 A. Yes. That's my neighbor's house.

22 Q. When you say, your neighbor, what neighbor
23 are you referring to?

24 A. Annette Barry.

1 MR. ANDRE: Mr. Smith, you can have a
2 seat.

3 THE COURT: Lights.

4 BY MR. ANDRE:

5 Q. Mr. Smith, when we had a picture of your yard
6 up, you previously -- you testified that your hands
7 were up?

8 A. Yes.

9 Q. What, if anything, happened as your hands are
10 up?

11 A. In the front yard -- what are you talking,
12 when I was in front of the house or when I was at the
13 back entrance?

14 Q. Going back to where you said you were in the
15 back gate entrance with your back to the gate, what,
16 if anything, happened as your hands were up if you
17 recall?

18 A. About -- it was -- I had my hands up, and
19 I'd say about a good minute or so. Backup had came,
20 and then when backup came, that's when it was like
21 maybe six officers in front of me if I'm not
22 mistaken. Maybe more than six. I didn't know exactly
23 how many.

24 And they was telling me to get on the ground.

1 And right before I was fittin' to -- I was fittin' to
2 get on the ground after so many officers there,
3 because I didn't know what was going on, like, what
4 was the problem. That's when I turned to the side,
5 and I had seen the lady that had the taser, and she
6 tased me. And it happened just like that.

7 Q. Mr. Smith, you mentioned when backup came.

8 Did they tell you why you were -- why they wanted you
9 on the ground?

10 A. No, they did not.

11 Q. You mentioned seeing a lady, and then getting
12 tased shortly?

13 A. Yes.

14 Q. Did you ever hear this lady with the taser
15 gun say anything to you?

16 A. No, she did not. I only heard the men that
17 was in front of me talking.

18 Q. What, if anything, did you hear them say?

19 A. I heard them -- one was saying, get on the
20 ground. The other one was saying, put your hands up,
21 keep your hands up.

22 Q. Mr. Smith, did you ever hear, get on the
23 ground or else you'll be tased?

24 A. No, I did not.

1 Q. Did you ever hear the words, taser, taser,
2 taser, Mr. Smith?

3 A. No, I did not.

4 Q. And when this officer shot you with the
5 taser, what, if anything, happened to your body if you
6 recall?

7 A. I couldn't move. I couldn't move at all.

8 Q. Where on your person did this officer shoot
9 you with this taser, Mr. Smith?

10 A. She shot me in the front in my stomach and
11 right above my crotch.

12 Q. So the officer shot you in your stomach, you
13 say?

14 A. Yes.

15 Q. And as the officer is shooting you in the
16 stomach and above your crotch area, can you explain to
17 the ladies and gentlemen of the jury what's happening
18 to your body if you recall?

19 A. I can't explain the feeling. I just
20 couldn't -- I couldn't move. I was, like, paralyzed.
21 I felt paralyzed. I couldn't move.

22 Q. When this officer shot you with the taser,
23 did the taser go inside your body?

24 A. Yes, it did. Yes, it did.

1 Q. And what, if anything, happened as you had
2 the taser in your stomach area and near your crotch
3 area?

4 A. I went to the ground. I went to my knees.
5 And when I went to my knees, they pushed me to the
6 ground and put the handcuffs on me.

7 Q. As you were on the ground, where is your --
8 how is your face in relation to the ground?

9 A. My face was in the grass at the time, because
10 one of them had their hands on my head.

11 Q. And after -- did they then handcuff you,
12 Mr. Smith? Do you recall?

13 A. Yes.

14 Q. What, if anything, happened after you were
15 handcuffed if you recall?

16 A. They took me and they put me in the truck, in
17 the police vehicle, the police truck.

18 Q. And after you were in the police truck,
19 where, if anywhere, did they take you to, Mr. Smith,
20 if you recall?

21 A. They took me to the police station.

22 Q. Do you recall what police station they took
23 you to?

24 A. It's on Ogden. I don't know -- I too much

1 don't know the district, but I know it's not too far
2 from my house.

3 Q. And what, if anything, happened when you were
4 brought to the police station, Mr. Smith?

5 A. They took me, and they put me in the little
6 cage, and I was yelling at them to tell them, man,
7 take these prongs up out of me, because I wanted them
8 out. It was hurting. I couldn't make too much moves
9 because it was hurting. I tell them to take the
10 prongs up out.

11 And one of the officers, the one that stopped
12 me, he was, like, can't you just pull them out? And
13 he was trying to reach to go pull it, and I turned my
14 back away.

15 I was, like, you're not fittin' to pull this
16 out. You're not fittin' to touch me. Call the
17 ambulance. That's exactly what I told him. Call the
18 ambulance. You're not fittin' to touch me.

19 Q. So when you were put in this cage, as you
20 described it, the prongs from the taser were still
21 inside your body?

22 A. Yes.

23 Q. And at that point, had you received any sort
24 of medical assistance?

1 A. No, I haven't.

2 Q. At that point, had any of the officers asked
3 you if you needed to go to the hospital, Mr. Smith, if
4 you recall?

5 A. No, they did not.

6 Q. What, if anything, happened after you asked
7 them to call an ambulance, if you recall?

8 A. They called an ambulance. It finally came,
9 and they took me to Mt. Sinai.

10 Q. What happened at Mt. Sinai?

11 A. I was there for maybe about 30, 40 minutes
12 before they actually took the prongs up out, and then
13 I got sent right back to the station.

14 Q. And when you went back to the police station,
15 Mr. Smith, did at some point in time you meet with any
16 detectives?

17 A. Yes, I did.

18 Q. Please tell the ladies and gentlemen of the
19 jury what, if anything, happened when you met with the
20 detectives?

21 MR. ENGBRETSON: Judge, I'd object. May I have
22 a sidebar?

23 THE COURT: Yes.

24

4

THE COURT: All right. Yes?

6 MR. ENGBRETSON: Judge, I'd object to eliciting
7 any statements or conversations that the defendant
8 had with the detective.

THE COURT: What's your basis?

10

MR. ENGBRETSON: It's hearsay. He's offering his own statement.

12

THE COURT: Yes. He is offering his own statement on his case-in-chief. It's subject to cross-examination.

15

14
15 MR. ENGBRETSON: It's an out-of-court statement
16 made by the defendant.

27

17 THE COURT: I know. If they tried to get it in
18 in your case-in-chief through other witnesses other
19 than the accused. Definitely. It would be
20 self-serving, too.

21

All right. Overruled.

22

23

4
5 THE COURT: Proceed, Mr. Andre.

BY MR. ANDRE:

8 Q. Mr. Smith, you started to explain your
9 meeting with detectives over at the 10th District?

10 A. Yes. I had met with them. He asked me what
11 happened, and I told him what had happened, exactly
12 what happened, and that was it. He left back out.

13 Q. Did you ever tell these detectives,
14 Mr. Smith, that you had pushed any of these officers?

15 A. NO.

16 Q. Did you ever tell these detectives,
17 Mr. Smith, that you had elbowed any of these officers?

18 A. N.G.

19 Q. Did you tell the detectives that one of these
20 officers had pushed you?

31 A Yes, I did.

22 Q. Mr. Smith, just going back to your background
23 really quick, you mentioned -- where do you currently
24 work just for clarification?

1 A. Navy Pier.

2 Q. Do you actively work there right now?

3 A. No, I don't actively work there now.

4 Q. What does that mean?

5 A. I can't work there now until this case is
6 over with.

7 MR. ENGEBRETSON: Objection.

8 THE COURT: The answer will be stricken. Move
9 on. Sustained.

10 BY MR. ANDRE:

11 Q. Mr. Smith, at what point in time did you
12 first find out when -- why you were arrested back on
13 October 8, 2015?

14 A. Once the detectives came in there.

15 Q. Officer Francone -- did Officer Francone ever
16 tell you why you were arrested, Mr. Smith?

17 A. Not at all.

18 Q. Did Officer Zuniga ever tell you why you were
19 arrested, Mr. Smith?

20 A. Not at all.

21 MR. ANDRE: One second, Mr. Smith.

22 (Brief pause.)

23 BY MR. ANDRE:

24 Q. Mr. Smith, as you stand here today, do have a

1 current job right now?

2 A. Yes, I do.

3 MR. ENGEBRETSON: Objection.

4 THE COURT: Overruled.

5 BY MR. ANDRE:

6 Q. What is your current job right now?

7 A. I bounce at a nightclub and do construction.

8 Q. What -- where do you do this construction,

9 Mr. Smith?

10 A. Where?

11 Q. Yes.

12 A. It varies. Whenever one of the contractors
13 have a building, that's when I get called, and that's
14 when I work.

15 Q. Mr. Smith, at any point in time on October 8,
16 2015, did you push Officer Zuniga?

17 A. Not at all.

18 Q. At any point in time on October 8, 2015, did
19 you push Officer Francone?

20 A. Not at all.

21 Q. At any point in time did you elbow Officer
22 Francone to the face?

23 A. No, I did not.

24 MR. ANDRE: No further questions.

1 THE COURT: Thank you.

2 Cross-examination, State.

3 CROSS EXAMINATION

4 BY MR. ENGEBRETSON:

5 Q. So, Mr. Smith, on October 8th at about 9:45
6 p.m., 2015, you were over at your grandfather's house;
7 is that correct?

8 A. Yes.

9 Q. Is that where you were living at that time?

10 A. No, I was not living there at that time.

11 Q. Okay. Just visiting your grandpa?

12 A. Yes.

13 Q. Now, while you were there, you and your
14 sister at about 9:45 were outside in front of the
15 house; correct?

16 A. We was not in front of the house at that
17 time.

18 Q. Okay. At some point, did you and your sister
19 ever go out on the to sidewalk together?

20 A. No.

21 Q. Your sister wanted to go to a store; is that
22 correct?

23 A. Yes.

24 Q. She was going to buy something?

1 A. I guess.

2 Q. You don't know?

3 A. I don't know. She wanted to go to the store.

4 I just wanted to attend her, because I didn't know
5 what was going on.

6 Q. Okay. And you said you didn't know what was
7 going on because you saw police cars --

8 A. Yes.

9 Q. -- earlier in the day?

10 You're her big brother?

11 A. Yes.

12 Q. You wanted to protect her?

13 A. All the time.

14 Q. And you wanted to go with her because you
15 knew it was kind of a dangerous neighborhood; correct?

16 A. Yes.

17 Q. There's shootings?

18 MR. ANDRE: Objection, Judge.

19 THE COURT: Overruled.

20 BY MR. ENGEBRETSON:

21 Q. There's shootings in the neighborhood;
22 correct?

23 A. Yes.

24 Q. In fact, was there a ongoing conflict in the

1 area?

2 A. There had recently been some shootings, but I
3 don't know if there was any conflicts going on.

4 Q. But there had recently been shootings in that
5 area?

6 MR. ANDRE: Objection, Judge.

7 BY THE WITNESS:

8 A. Yes.

9 THE COURT: Overruled.

10 BY MR. ENGBRETSON:

11 Q. In addition to the shootings, there are
12 narcotics that are sold in that area, too; correct?

13 A. I guess as far as that.

14 Q. You're aware of it? And they're sold kind of
15 hand to hand on the street, aren't they?

16 A. I don't know about that. I don't know
17 anything about that now.

18 Q. I'm not saying that you're involved --

19 THE COURT: All right. Move on, State.

20 BY MR. ENGBRETSON:

21 Q. Nonetheless, these are reasons why you were
22 worried about your sister; right?

23 A. I was worried about more of the shooting than
24 anything.

1 Q. Okay, sure.

2 And in addition, you had seen the police cars
3 earlier that day?

4 A. Yes.

5 Q. So -- and speaking of police, you work with
6 police officers, or you used to when you worked
7 security at Navy Pier; correct?

8 A. Yes.

9 Q. Did you have a good relationship with those
10 police officers?

11 A. Yes, I work with police officers every day
12 there.

13 Q. I asked you, was it a good relationship or
14 bad relationship?

15 A. Yes, great relationship actually.

16 Q. Okay. And you worked as security when you
17 were working at Navy Pier; correct?

18 A. Yes.

19 Q. So you have to tell people what to do as a
20 security officer, don't you?

21 A. No, I don't have to tell people what to do.
22 I don't tell people what to do.

23 Q. Do you direct traffic?

24 A. Yes, I direct traffic.

1 Q. You ask people what to do?

2 A. No, I don't ask people what to do.

3 Q. So as a security officer, you have never had
4 to interact with anybody?

5 A. Yeah, I had to interact. That's only if they
6 ask. I tell them what to do when they're doing
7 something wrong. When they need help, that's when I
8 assist them.

9 Q. If they're doing something wrong, you tell
10 somebody what to do?

11 A. Yes.

12 Q. And they listen to you?

13 A. Yes.

14 Q. And you expect hem to listen to you?

15 A. Yes, I do.

16 Q. So if you give them an order, you expect them
17 to follow that order?

18 A. I expect them to follow it, but if they don't
19 follow it, that's on them.

20 Q. All right. You're not a police officer so
21 you can't --

22 A. No, I'm not a police officer. I don't
23 enforce that. I don't tell them what to do or
24 anything. I'm just a safety and security officer.

1 That's all I do.

2 Q. But you understand that there's an importance
3 of following orders that you give?

4 A. Yes, I do understand it.

5 Q. All right. And even when you work as a
6 bouncer, you have to give orders, don't you?

7 A. No, not at all.

8 Q. You have to search people, or do you just
9 check IDs?

10 A. I just check IDs and I search people.

11 Q. All right. So you have to check and make
12 sure people don't have guns; right?

13 A. Yes.

14 Q. All right. Where can people hide guns?

15 A. Where do people have guns?

16 Q. Yeah.

17 A. Anywhere.

18 Q. Where do you search them?

19 A. I search everywhere.

20 Q. Do you search their waistbands?

21 A. Yes, I do.

22 Q. That's a place where people most likely carry
23 a gun?

24 A. Most likely.

1 Q. All right. So when somebody hides their
2 waistband from you, as a bouncer, you would be
3 concerned about that, wouldn't you?

4 A. No. Because as a bouncer, I don't check them
5 inside. I check outside.

6 Q. All right. So if somebody is coming up
7 to the club and you had to search their waistband and
8 they refused, you'd be concerned about that;
9 correct?

10 A. Well, I'm just not going to let them in.

11 Q. You're not going to let them in, because they
12 might have a gun, and they're not letting you search
13 them; right?

14 A. Right.

15 Q. Did you let the police touch your waistband?

16 A. No, they didn't ask.

17 Q. But you were fumbling with your waistband,
18 your belt area before they came up to you; right?

19 A. Yes.

20 Q. So they could have thought that you had a
21 gun?

22 A. Yes, they could have.

23 Q. That's a reasonable assumption that that
24 police officer was making, wasn't it?

1 A. Yes.

2 Q. Even more reasonable by the fact that you
3 turned away from them and you tried to go in the
4 house; right?

5 A. No.

6 Q. Well, you said you more likely think somebody
7 has a gun when they turn away from you and they refuse
8 for you to search them; right?

9 A. Right. But that's a police officer's job.
10 I'm not a police officer.

11 Q. Okay. But you understand what I'm saying.
12 Isn't it more suspicious that you turned away and you
13 refused to let them touch you?

14 A. No, it wasn't like that.

15 Q. So it's less suspicious when you refused to
16 let them touch you?

17 MR. ANDRE: Objection, Judge, asked and
18 answered.

19 THE COURT: Overruled. Repeat your question.

20 MR. ENGEBRETSON: Sure.

21 BY MR. ENGEBRETSON:

22 Q. Is it less suspicious to the police officer
23 when you turned your waist away from them and refused
24 to let them search your waistband?

1 A. Yes.

2 Q. So they should feel more comfortable then
3 with your refusal to listen to their orders and to
4 show them your waistband?

5 A. Can repeat it, please? I'm not good at being
6 questioned.

7 Q. Okay. I'll do it again. I'm sorry.

8 So, Mr. Smith, when you turned away from the
9 police and went back into your house and you refused
10 to show them your waist --

11 THE COURT: Restate the question, State. He
12 never went back in the house.

13 BY MR. ENGBRETSON:

14 Q. Moved towards your house --

15 A. I never turned my back to the police.

16 Q. Okay. Now, was your sister outside during
17 this interaction that you had with the police?

18 A. Yes.

19 Q. Where was she?

20 A. She's behind me.

21 Q. Did she ever get on to the sidewalk?

22 A. No, she did not.

23 Q. So she never left her yard?

24 A. No, she never left the yard.

1 Q. The two of you were never face to face on the
2 sidewalk?

3 A. Never.

4 Q. And once you started, as you said, backing up
5 into the house, she went inside; correct?

6 A. She didn't go inside. She went up the
7 stairs.

8 Q. Okay. Did she stay on the porch up there?

9 A. Yes.

10 Q. So she saw the entire thing?

11 A. Not the entire thing.

12 Q. At what point did she leave?

13 A. She had left to go get my grandfather.

14 Q. When?

15 A. Once -- it had to be after --

16 Q. When did you see her leave?

17 A. When did I see? When -- this was after I was
18 pushed. She was already upstairs at the time, because
19 we was coming back -- I was backed up against the
20 stairs at the time. She was already upstairs. I
21 noticed she was gone once I was pushed and I took my
22 hoodie off.

23 Q. Now, this whole time that you're in the yard
24 with the two police officers, they're giving you

1 orders; correct?

2 A. Yeah. They're telling me to get on the
3 ground.

4 Q. Okay. And they're trying to touch your body?

5 A. Put your hands up. Yes.

6 Q. They're trying to touch different parts of
7 your body, and you're moving away from them; correct?

8 A. Yes. Yes.

9 Q. At some point, your hands are up in the air?

10 A. Yes, they are.

11 Q. At some points, they go down behind your
12 back?

13 A. Yes.

14 Q. Sometimes they go back up in the air?

15 A. No. That only happened once.

16 Q. Are you holding your hands behind your back?

17 A. No. Every time they grabbed, I turned away
18 like this.

19 Q. Are your hands in front of you, at your side,
20 or behind your back?

21 A. It was at my side.

22 Q. And you're turning your shoulders back and
23 forth as they're trying to grab you?

24 A. One was trying to grab me. It was back and

1 forth. One would try to grab me, and then the other
2 one would try to grab. And I resist one way, this
3 way, and I resist again this way.

4 Q. And they're kind of on different sides of
5 you; correct?

6 A. At that time, yes.

7 Q. So you had to go back and forth between the
8 two of them?

9 A. Yes.

10 Q. You played football, didn't you?

11 A. Yes.

12 Q. What was your position?

13 A. My position was the line position, offensive
14 line and defensive line.

15 Q. How much do you weigh, sir? How big are you?

16 A. Now? Now I'm like 330.

17 Q. Okay. In 2015, about the same size?

18 A. I was like 350. Yeah, about 350.

19 Q. So -- and during this -- was this a zip up
20 hoodie or a pullover?

21 A. It was a pullover hoodie.

22 Q. All right. So even though the police are
23 telling you to stop, to get on the ground, all these
24 things, you decide to just take your shirt off;

1 correct?

2 A. I took my hoodie off to show them -- to show
3 them I didn't have anything on me, because my pants
4 was already halfway down, because I was tightening my
5 belt up.

6 Q. So the fact that you took the hoodie off, you
7 knew that they were worried that you might have a gun;
8 right?

9 A. Yeah. But they didn't tell -- no, I did not
10 know. No, no, no.

11 Q. Well, then why did you take your hoodie off?

12 A. I took my hoodie off to show them I didn't
13 have one, didn't have anything on me, whatever they
14 was looking for.

15 Q. But you did that because you knew that was
16 something they were concerned about?

17 A. Most likely, yes.

18 Q. All right. Okay. Couldn't you just let them
19 search you?

20 A. They didn't tell me what they were searching
21 me for or that they wanted to search me. They didn't
22 tell me anything.

23 Q. You wanted to be in control of this
24 situation; right?

1 A. I wanted to know what was going on.

2 Q. You had questions, and you wanted them
3 answered?

4 A. Yes.

5 Q. And you weren't going to do anything until
6 they did things your way the way you wanted it?

7 A. No, it wasn't the way I wanted it. That's
8 the way that I was shown to deal with the police.

9 Q. To run from them?

10 A. No, not run from them.

11 Q. To avoid them?

12 A. Not to run from them, not to avoid them.

13 Don't let them do anything to you without them telling
14 you what's the reason for it. Don't let them stop you
15 or anything.

16 Q. What about the 18th District officers that
17 you work with and you have a good relationship with?

18 A. Yes.

19 Q. I mean, did you think that there -- you
20 didn't know these two officers; right?

21 A. Not at all.

22 Q. So I mean, you understood the safety concerns
23 that they would have; right?

24 A. Yes, I definitely understand that.

1 Q. Okay. So while your hands are behind you and
2 to the side and you're shrugging, you're actively
3 moving and you're actively resisting the orders of the
4 police officers; correct?

5 A. Yes.

6 Q. And you said then about six officers -- six
7 cars' worth of officers arrived?

8 A. I didn't say. I don't know how many cars.

9 Q. Okay. About six police officers arrived?

10 A. I don't know how many -- I don't know how
11 many arrived. I don't know how many arrived, but when
12 I was in the corner, I know it was about a good six
13 officers in front of me.

14 Q. So two that were already there and another --
15 about four officers?

16 A. Yes.

17 Q. And you had backed yourself kind of into the
18 corner of this lot; right?

19 A. Yes.

20 Q. So you had a frontal view of the six officers
21 as they came towards you; correct?

22 A. Yes.

23 Q. All right. One of them was a female officer;
24 right?

1 A. No.

2 Q. No? So it was six plus the female officer?

3 A. Yes. The female officer was outside. She
4 never came into the yard.

5 Q. Okay. And I'll clarify it.

6 All six -- because you have a chain linked
7 fence that you can see through; correct?

8 A. Yes.

9 Q. And, in fact, the fence only goes a little
10 bit above waist height; is that correct?

11 A. No. It goes higher than a waist. It looks
12 like that in the picture. It comes a little bit above
13 the waist.

14 Q. A little bit above the waist?

15 A. Yes.

16 Q. And it's easy to see who's on the other side
17 of the fence?

18 A. Yes.

19 Q. So when you're saying six officers arrived --
20 or excuse me -- six officers come into the yard, all
21 six go into the yard with you; correct?

22 A. No, it wasn't like that.

23 Q. Okay.

24 A. They didn't all come in at once.

1 Q. How many officers came into the yard?

2 A. It was two already into the yard, and when I
3 looked, it was just like they appeared. They just
4 came there, like. I don't know how they --

5 Q. From the sky?

6 A. I don't know exactly how they came running in
7 there, but when I looked up and I noticed it was six
8 officers in front of me, and I'm like --

9 Q. Where did them come from?

10 A. -- man, like, what's all this for.

11 Q. I mean, but you understand, they didn't,
12 like, walk into your yard or run into your yard at
13 least; right?

14 A. Most likely.

15 Q. They didn't come out of the sky?

16 A. I know they didn't come from the sky.

17 Q. Well, what were you looking at? You can see
18 them walk up? You can see through the gate? You can
19 see over it? You can see through the fence?

20 A. I'm focusing on the ones that's in front of
21 me.

22 Q. Focusing on getting away from them?

23 A. Yes.

24 Q. So at that point, you're not standing with

1 your hands up. You're moving around. You're looking
2 between the officers because you're still resisting?

3 A. Yes.

4 Q. And you're so focused on resisting these two
5 officers, that you then just look up and you see an
6 additional four officers; is that fair?

7 A. Yes.

8 Q. Now, and these four officers weren't outside
9 on the sidewalk. They had actually gotten into your
10 yard with you?

11 A. Yes.

12 Q. So -- and this is a relatively small front
13 yard; is that fair to say?

14 A. It's a nice size.

15 Q. Well, with you and six other police officers
16 in that piece of grass in between the gangway,
17 sidewalk, and your front steps, that yard was pretty
18 filled with human bodies at that point; correct?

19 A. Yes.

20 Q. And still, none of the police officers other
21 than that one pushed by Officer Francone had pushed
22 you or hurt you or anything like that; correct?

23 A. No, not at all.

24 Q. Even the additional four, they didn't put

1 their hands on you or anything like that?

2 A. Afterwards.

3 Q. Afterwards.

4 So then, even though there's six officers,
5 you're saying a female officer then shoots you with a
6 taser; correct?

7 A. Yes.

8 Q. And when she shoots you, it's directly in
9 front; correct?

10 A. No, it's not directly in front.

11 Q. Well, she shot you in your stomach?

12 A. She shot me in my stomach, because once I
13 seen her, I turned.

14 Q. And when you turned, you were facing her;
15 correct?

16 A. Yes. At that time, yes.

17 Q. All right. You turned your whole body?

18 A. I turned my whole body.

19 Q. So you had a straight view of her; correct?

20 A. Not a straight view of her.

21 Q. But you were facing her?

22 A. I was facing her. She was more like on an
23 angle towards me.

24 Q. Sure. All right. And that's when she shot

1 you with the taser; correct?

2 A. Yes.

3 Q. All right. And you heard other police
4 officers yelling commands at you; right? To get down?

5 A. To get down on the ground.

6 Q. All commands that you have just completely
7 been ignoring for the past five minutes; right?

8 A. Right.

9 Q. All right. And they're pretty close and
10 they're yelling these commands at you; right?

11 A. Yes.

12 Q. So she may have said something, but you
13 couldn't hear her?

14 A. No. She didn't say anything at all. I would
15 have heard her.

16 Q. I thought you said you weren't looking at her
17 and you didn't notice she was there?

18 A. I noticed she was there once she walked up.
19 When she walked up, I seen that out of my peripheral.

20 Q. How long did it take her to walk up?

21 A. I don't know.

22 Q. When you saw her out of your peripheral --

23 A. Not even 30 seconds.

24 Q. Okay. Did you see her get out of her car?

1 A. No, I did not see her get out of the car.

2 Q. Did you see her raise the taser from her
3 waist?

4 A. No, I did not.

5 Q. Okay. But you had seen her in your --

6 A. I seen a body in my peripheral, and I turned,
7 and when I turned, that's when I got tased.

8 Q. Counsel asked you a lot of questions about
9 these church groups you're involved with and stuff
10 like that. And you're a greeter?

11 A. Yes.

12 Q. When the other four officers arrived, you
13 still had your hands down by your side, kind of doing
14 the shoulder -- I don't know -- resisting, moving your
15 shoulders back and forth?

16 A. No. At that time, I was in a corner.

17 Q. Okay. And at that time, you had stopped?

18 A. I had stopped. It was about a good -- I'd
19 say about a good minute and a half when it was just --
20 maybe about two minutes we was just standing there.

21 Q. Okay. So about two minutes you're standing
22 in the corner. You're not resisting, and it's just
23 you and those two officers?

24 A. Just me and the two officers.

1 Q. And your hands are up for those two minutes?

2 A. My hands are up at that time, yes.

3 Q. Did you get tired having your hands up two
4 exactly minutes?

5 A. It wasn't two whole exactly minutes.

6 Q. Well, I'm asking you to tell the truth today.
7 How long was it?

8 A. I had my hands up for maybe about a good
9 minute, and then I put my hands down.

10 Q. Okay. So when the other four officers
11 arrived, your hands were down?

12 A. Yes. At the time, they was down, yeah.

13 Q. But you're still just standing there?

14 A. Yes.

15 Q. So if you're just standing there, how come
16 you couldn't see those police officers arrive?

17 A. Because the officers that was in front of me,
18 they came on an angle, and I'm facing the officers
19 that's in front of me. I didn't see them because I'm
20 more -- I'm talking to them. I'm telling them my
21 background, what I do, and everything like that.

22 And by that time --

23 Q. You got your peripherals? You got your
24 vision --

1 A. Yes.

2 Q. -- you can see a whole bunch of police
3 officers and flashing lights and cars arrived?

4 A. Yes, I understand that.

5 Q. So you don't have an explanation for that?

6 A. No. I didn't see them coming in. I didn't
7 see them coming in.

8 MR. ANDRE: Objection.

9 THE COURT: The answer will stand.

10 BY MR. ENGBRETSON:

11 Q. When Officer Francone got out of his car, his
12 car didn't have lights or sirens activated? He just
13 jumped out?

14 A. Yes.

15 Q. So it wasn't until the backup units arrived
16 that the lights and sirens started; right?

17 A. Correct.

18 Q. And that's something that you can obviously
19 see from far away?

20 A. Yes.

21 Q. And you could hear the officers calling for
22 backup while they were in the yard with you?

23 A. Yes, I heard them calling for backup.

24 Q. They never took their guns out; correct?

1 A. Took their guns out? I didn't see them take
2 the gun out. A gun, I never seen them take a gun out.
3 I didn't see that.

4 Q. Okay. And they didn't put any choke holds or
5 try to punch you or kick you or anything like that,
6 did they?

7 A. Well, when I was on the ground, I got knees
8 and hands -- I felt a lot of pressure on my back and
9 hand.

Q. During the handcuffing; right?

11 A. The handcuffing, yes.

12 Q. Prior to that, there was no kneeing or
13 punching or anything?

A. Other than the push, no.

Q. They just used their words; right?

16 A. Who?

Q. They just used their words; correct?

Handwritten in ink, this document is dated 1870 and signed by the author, J. C. H. (John Charles Hare).

18 A. USED ONCE

19 MR. ENGBRETSON: May I just have a moment?

20 Honor?

21 BY MR ENGEBRETSON:

22
23 Q. Mr. Smith, earlier when counsel asked you
24 questions, you said that when Officer Francone pushed

1 you, you became upset; correct?

2 A. Yes, I was upset.

3 Q. You were angry at him?

4 A. I wasn't angry. I never was angry. I was
5 upset and scared more than anything.

6 Q. Okay. You went to the police station;
7 correct?

8 A. Yes, I did.

9 Q. And this whole thing started at about
10 9:45 p.m.; correct?

11 A. No. It didn't start at -- it was more of
12 like around -- I don't know exactly, but it was around
13 that, because it just stopped raining at, like, 8:30.

14 Q. Is it fair to say you don't know exactly what
15 time?

16 A. Yes, I don't know exactly what time.

17 Q. Once you went to the police, they called an
18 ambulance for you; correct?

19 A. Yes.

20 Q. And then the ambulance took you to the
21 hospital; correct?

22 A. Yes.

23 Q. And the ambulance workers, they didn't take
24 the barbs out of you?

1 A. Who?

2 Q. The ambulance workers? Like the fire
3 department?

4 A. No, they didn't. They took me -- the nurse
5 at Mt. Sinai took the prongs out.

6 Q. And when you went to Mt. Sinai, you were seen
7 by a doctor; correct?

8 A. Yes.

9 Q. They took the barbs out; correct?

10 A. Yes.

11 Q. And then after they took the barbs out, they
12 did an examination on you; correct?

13 A. No, they did not.

14 Q. Well, at no point they checked your blood
15 pressure?

16 A. Yes, they did that beforehand.

17 Q. Okay. So you were seen by a doctor, and they
18 did the examination; correct?

19 A. Yes.

20 Q. And after they took the barbs out, the doctor
21 cleared you and sent you back to the police
22 department; correct?

23 A. Yes.

24 MR. ENGBRETSON: Nothing else, Judge.

1 THE COURT: Redirect?

2 MR. ANDRE: No further questions, your Honor.

3 Thank you.

4 THE COURT: Mr. Smith, you can step down and
5 have a seat over at counsel table, please.

6 Ladies and gentlemen, we're going to just
7 take a short break, and then we'll resume.

8 THE DEPUTY SHERIFF: All rise for the jury.

9 (WHEREUPON, a recess was had
10 in the above matter after
11 which the following
12 proceedings were had:)

13 (WHEREUPON, the following was
14 had in open court, in the
15 presence of the jury:)

16
17 THE DEPUTY SHERIFF: All rise for the jury.
18

19 THE COURT: Will everybody please be seated?
20 Call your next witness, please.

21 MS. CROCKER: Defense calls Joseph Atkins, Jr.

22 THE COURT: Sir, come on up here, and Heather
23 will give you some assistance.

24 THE DEPUTY SHERIFF: Step up here, sir. Step